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## **Presenters**



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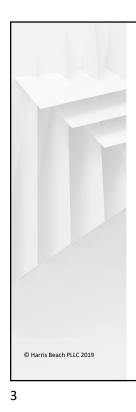


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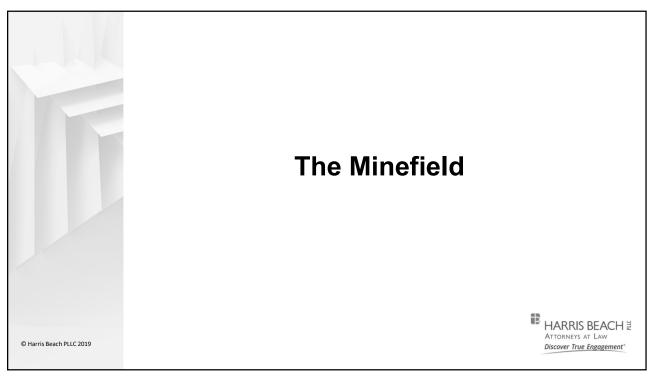
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## Outline

- I. The Minefield
  - I. Lobbying
  - II. Ethics & Gifts
  - III. Procurement
  - IV. Hidden Mines
  - V. Public Data
- II. Navigation
  - I. Best practices
  - II. Incorporating into compliance program







## Landscape

- Generally
- National
- State
- Local
- Changing norms: When "that is how business is done" is no longer how business can be done.

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- Different regulatory structures
- Different reporting thresholds
- Different registration and reporting requirements
- Different reporting deadlines
- Different exceptions

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## What is "lobbying"?

- Definition(s)
- Direct vs. grassroots vs. shadow

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## "Am I a lobbyist?"

- It's not all crocodile shoes and pocket squares
- Corporate executives / directors
- Lawyers, in-house counsel
- Doctors and hospital executives
- Engineers and architects
- Insurance industries
- Highly-regulated industries (energy; gaming; cannabis)

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#### The L word

- Scarlet letter
- Risk of unregistered lobbying
- Penalties
- Brand damage

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## Big Question: Is it a covered activity?

- Is registration required under the LDA of 1995?
- Is registration required under state and local laws?
- High threshold, loophole-ridden laws, and poor enforcement has led to many to deregister at federal level
- Wide disparity in state laws and enforcement

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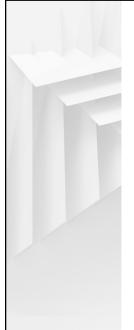


### **Enforcement**

- Federal and state
- U.S. Attorney's offices
- New York: Regulator promised enforcement on new regulations
- Common igniters of enforcement

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# **Compliance Analysis**

- Regardless of jurisdiction, questions to ask:
  - 1. Do you interact with public officials or employees?
  - 2. Are you attempting to influence any government actions?
  - 3. Are the government actions covered by law?
  - 4. Are your activities excepted?
  - 5. What is the threshold requiring registration?
  - 6. If registration is required, how long do you have?

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### **Ethics**

- "Ethics by any other name would smell as sweet"
  - Billy Shakespeare
- What is "ethics"?
- For today's purposes, includes:
  - Post-employment restrictions
  - Nepotism
  - Political activities
  - Conflicts of interest
  - Gifts

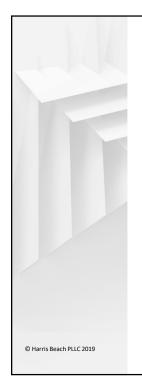
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## Ethics - Generally

- No "moral compasses"
- But see, NY Post Test
- Compare with codes of ethics, federal law, state law, etc.



### **Ethics**

- Post-employment restrictions (aka "The Revolving Door")
  - Hiring former government officials carries risk
- Nepotism
- Political activities
- Conflicts of interest
- And...

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## **Gifts**

- How is *that* a "gift"?
- Anything of value
- Cash / gift cards
- Tickets (sporting events; theatre; admission)
- Dinners / lunches / drinks
- Travel
- Contributions to NFPs tied to official or within district

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### Gifts Continued . . .

- Depends on jurisdiction:
  - Bigger ball of confusion than lobbying laws
  - Exceptions
  - "Nominal" or other dollar thresholds
  - Tickets to charitable events
  - Donations to public entities and/or governments

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## **Procurement and Contracting**

- It's all in the details . . .
- Restrictions on lobbying and/or campaign contributions
- What No Doubt and Get Smart have to do with procurement laws
- Exceptions, exceptions, exceptions...

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#### **Hidden Mines**

- Foreign Agents Registration Act (FARA)
- Foreign Corrupt Practices Act (FCPA)
- U.K. Bribery Act
- Byrd Amendment
- Nonprofits: Substantial Part Test
- Municipal lobbying and gift laws

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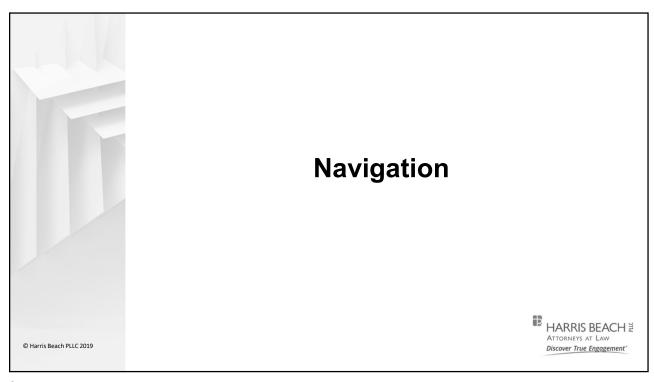
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### Beware: Public information

- Lobbying disclosure databases
- State sunlight databases
- Campaign finance databases
- Freedom of information laws
- "It's become self-aware"—the rise of Al

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#### **Best Practices**

- Policies and procedures
  - Gifts (both giving and receiving)
  - Entertainment
  - Lobbying
  - Political activities
  - Campaign contributions
- Training: Tailored to risk, on both laws and policies
- Auditing, monitoring, tracking of interactions and expenses

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## Logistics

- Who is responsible for overseeing?
  - Government affairs? GC? Compliance? Accounting?
- How is compensation, time, and/or expenses tracked?
- How are gifts monitored?
- Who is trained?
- What policies are necessary?
  - Very few orgs have lobbying policies (compare gifts, political activity, etc.)

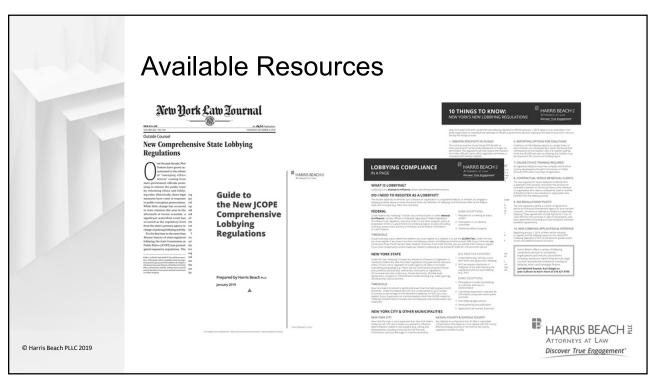
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## **Closing Thoughts**

- Goal is awareness, not memorization
- Like any risk, biggest question is whether you are addressing, and if so, how?

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## Questions?

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